THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.16750 of 2005

Dated: 15.06.2006

Between

Allu Bhanumathi

…..Petitioner

and

The Collector ((Cooperation)

Visakhapatnam Dist.

….Respondent

WP No.19636 of 2005

GNKRS Sanyasi Naidu and antoher

…Petitioners.

And

The Collector (Cooperation)

Visakhapatnam Dist.

…Respondent

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.16750 of 2005 & WP No.19636 of 2005

COMMON ORDER:

Since common questions of fact and law fall for consideration in these two writ petitions, they are being disposed of by this common order.

There is no necessity to go into all the details. The petitioners'-societies have been merged with other societies on the ground that merging of non-viable societies of a Mandal would make them viable. Accordingly, a notification under Section 15-A (1) (e) of the Act was issued, objections were called for, and the final notification was issued under section 15 (2) of the Act. Challenging the said final notification, these two writ petitions have been filed.

It is the contention of the learned counsel for the petitioners that firstly, the respondent-Collector has no authority for issuing such notification under Section 15-A of the Act, secondly, even if such power is vested with the respondent-Collector, the same cannot be exercised against these societies. As per Section 15-A of the Cooperative Societies Act, if the Registrar is of the opinion that in respect of a society or societies in receipt of state aid as specified under Section 43 of the Act, it is necessary to amalgamate or merge any society with any other such society, he may take decision. Since the writ petitioners'-societies are not getting any state aid, the respondent-collector

being registrar under the Act, cannot proceed against the petitioners'-societies for amalgamation in the guise of they being non viable. In this regard, learned counsel for the petitioners has drawn attention of this Court to Section 43 of the Act.

The respondent has filed detailed counter stating that the petitioners'-societies are receiving aid as contemplated under Section 43 of the Act. The learned Government Pleader contended that firstly under Section 15-A of the Act, the Collector is empowered to consider the amalgamation of the societies and such power is delegated to him as per GO.Ms.No.82. Secondly, the State is a guarantor for NABARD, which funds the DCCB and in turn DCCB to societies. The Societies having share capital in the DCCB, borrowing the funds from it and DCCB is obtaining the funds from its financing bank AP State Cooperative Bank Limited, Hyderabad, in turn the AP State Cooperative Bank Limited, Hyderabad obtains such funds from the NABARD with the guarantees provided by the State Govt. Further, the Government also provided the interest rebate scheme and re-schedulement of loans interest incentive schemes to the members of the PACSs in the state including the petitioners'-societies. Therefore, as contemplated under Section 43, the State aid is being received by the societies.

Learned counsel for the petitioners also stated that their societies are old societies and they are sought to be merged with the new societies. Apart from that, they are larger societies than that of the societies, which are sought to be merged and therefore, the Collector has no jurisdiction to pass the impugned order.

In fact, I have decided WP No.17784 of 2005 & batch dated 13.06.2006 disagreeing with the similar contentions raised by the petitioners therein and dismissed the WP. Since in this case, a new angle i.e., the societies are not receiving the aid under Section 43, the very application under Section 15-A of the Act is not applicable, has been raised, this point needs to be answered specifically.

In view of Section 43 and the contention of the learned counsel for the respondents that the Societies having share capital in the DCCB, borrowing the funds from it and DCCB is obtaining the funds from its financing bank AP State

Cooperative Bank Limited, Hyderabad, in turn the AP State Cooperative Bank Limited, Hyderabad obtains such funds from the NABARD with the guarantees provided by the State Government, and further, the Government also provided the interest rebate scheme and re-schedulement of loans interest incentive schemes to the members of the PACSs in the state including the petitioners'-societies, it cannot be said that the societies are not receiving any aid as contemplated under Section 43 of the Act. Thus, once it is concluded that the society is receiving aid as contemplated under Section 43, the provisions of Section 15-A are very much applicable even to the societies ie., PACS societies in the state.

In view of the above reasons, both the writ petitions are devoid of merits and are liable to be dismissed.

Accordingly, the writ petitions are dismissed.

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15.06.2006

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